



# TEXAS FUNERAL SERVICE COMMISSION

## 1ST QUARTER NEWSLETTER

### September 2015 - November 2015

September 1, 2015

The end of summer. The start of school. It has been a busy couple of weeks for me. My children are now first graders! I hope everyone remembers to slow down in those school zones and obey school bus warnings.

Over the summer we got the new website up and running. I hope you've had a change to explore it. If you have any feedback, positive or negative, I would love to hear it. I am always looking to make things more efficient and effective for licensees and consumers.

And, the Commissioners adopted the proposed rules at the June meeting. The rules were open for public comment for 30 days. I will be taking the final version to the Commissioners for adoption this month. If they vote to move forward, the new rules will become effective 20 days after the agency files them with the Secretary of State. Look to the "TFSC News & Things to Know" page on our website for important updates.

As always, please feel free to share your thoughts and concerns with me.

Yours truly,

A handwritten signature in cursive script that reads "Janice".

Janice S. McCoy  
Executive Director

## **Changes at the Commission**

In June Governor Greg Abbott appointed Jean Olinger to serve as Presiding Officer of the Texas Funeral Service Commission. Commissioner Olinger has a master's degree in social work, a doctorate in management and organizational leadership, and a wide range of experience in nursing facility management. She and her husband live in Blanco, Texas. She will serve as Presiding Officer through June 2018.

The Commissioners voted at the June 9<sup>th</sup> meeting to update the fee charged for a Duplicate License. Agency staff found the previous fee structure hard to manage. The fee for a Duplicate License - no matter when it is ordered - is now \$5 per license ordered.

The *Facts About Funerals* brochure has been updated. A funeral establishment may continue to use the previous brochures until all have been distributed. New orders will be fulfilled with the brochure dated September 2015.

The State of Texas Funeral Services Law Book (Effective Sept. 2015) will be available for purchase no later than November 1, 2015. The new law book will include both the Commission's governing statute and the updated Rules of the Commission.

## **Upcoming Commission Meetings**

The TFSC meeting will be held **Tuesday, September 15**, beginning at 9:00 am in Room 2-225 of the William P. Hobby Building in Austin, Texas. Licensed Texas funeral directors and embalmers can receive up to four hours of continuing education credit for attending a Commission meeting.

The Commission has tentatively scheduled the following dates for future meetings:

September 15, 2015  
December 8, 2015  
March 1, 2016  
June 21, 2016  
September 13, 2016  
December 13, 2016

## **A Message from Licensing**

The Licensing Division fulfills the TFSC's mission to protect the public from deceptive practices by performing licensing, registration, examination and continuing education functions.

The current licensing work processes include (1) processing all initial provisional license applications, reciprocal applications and reinstatement applications for funeral directors/embalmers to include DPS/FBI fingerprint background checks; (2) administering examinations for all individual licensees; (3) renewing individual licenses; (4) ensuring licensees are current with their continuing education requirements and (5) processing all initial/renewal establishment applications to include funeral homes, commercial embalming facilities, crematories and certain cemeteries.

**Change of Address**

Licensees must notify the Commission in writing if they have a change of address. This notification helps ensure that mail and communications to licensees is not delayed.

**Continuing Education**

All active license holders must complete 16 hours of continuing education prior to a license being renewed. Licensees who are on retired, active status are required to obtain 10 hours of continuing education. Inactive licensees are not required to take any continuing education.

The Commission performs a random audit of continuing education credits. Each month, 10 percent of individual licensees will receive a letter with the renewal notice stating that he/she will have to submit his/her certificates to the Commission prior to renewal.

Failure to complete required continuing education will delay renewal of the license and may cause additional fees and penalties to be imposed. It is the sole responsibility of the licensee to submit continuing education certificates to the Commission, even if the licensee renewed online.

**FDIC/EIC**

At all times a licensed funeral establishment must have a designated funeral director in charge (FDIC). The FDIC is ultimately responsible for compliance with all mortuary, health and vital statistics laws in the funeral establishment. Commercial Embalming Establishments must have at all times have a designated embalmer in charge (EIC). Funeral establishments that perform embalming services should only designate a FDIC, not both.

Any time a FDIC/EIC changes the establishment must notify the Commission by submitting the prescribed forms within 15 days. All forms - FDIC Appointment/Removal and EIC Appointment/Removal - can be found on the TFSC website by following the "TFSC Establishment Licensing & Regulations" link.

**Duplicate License**

A licensee shall conspicuously display his/her license in each place of business at which the licensee practices. All licenses displayed must be the original embossed license issued by the Commission and may not be a copy of the original license.

The fee for a duplicate license is \$5.00 per license ordered.

**Renewals**

Funeral Directors and Embalmers can renew a license online. To renew online, go to [www.hpc.state.tx.us/message.php](http://www.hpc.state.tx.us/message.php) or follow the links from the TFSC website. The website details what information is required for license issuance.

Licensees who renew online and do not receive a license in the mail should contact the Commission. Be prepared to provide the transaction receipt received upon completion of renewal online. Without a receipt, the Commission cannot trace the renewal.

## **Publications**

All licensed funeral homes are required to provide the TFSC promulgated *Facts about Funerals* brochure to customers when funeral services are discussed. Funeral homes must order the brochure from the Commission.

The State of Texas Funeral Services Law Book (Effective Sept. 2013) can be purchased for \$15.00. The law book includes the Commission's governing statute but does not include the Rules of the Commission. Rules of the Commission can be accessed through the TFSC website.

Publication order forms can be found on the TFSC website by following the "TFSC Forms" link. Please use this order form to avoid delays in shipment of orders. All orders must include a physical shipping address or the orders will not be processed.

## **Public Licensing Information**

A person can verify that an individual/establishment is licensed with the Commission by accessing the TFSC website and following the "License Search & Verification" link.

## **A Message from Compliance**

The Compliance Division fulfills the TFSC's mission to protect the public from deceptive practices by inspecting establishments and investigating complaints. The compliance work processes include (1) ensuring each licensee is in compliance with the rules and regulations that govern the death care industry in the state of Texas through investigation of consumer complaints and (2) inspections of all establishments licensed by the TFSC.

## **Embalming**

Tex. Occ. Code §651.457 states "A person violates this chapter if the person embalms a body without receiving the *express* written or oral permission of a person authorized to make funeral arrangements for the deceased" (emphasis added).

In recent months, the Commission has noticed an increase in the number of complaints related to the use of the term "prepare the body" by a funeral director. To the licensed funeral director "prepare a body" may mean to embalm the deceased. However, a family member may understand "prepare a body" to mean something else to include removal, bathing, or dressing the body.

Using the industry lingo "prepare the body" instead of expressly asking for permission to embalm may lead to embalming being performed without express permission being granted. While it may seem to be semantics, by making sure the family member knows he/she is being asked for permission to embalm, the funeral director could avoid possible administrative penalties and/or sanctions.

The Director of Compliance encourages all funeral director to stop using the term "prepare" in lieu of the term "embalm."

### **Disposition of a Body**

One of the most common questions received by the Compliance Division relates to who has the right to control the disposition of a decedent's body. This information is found in the Texas Health and Safety Code §711.002. Additionally, Subsection (k) outlines the appropriate measures to be taken if there is a dispute among the people who may have the right to control the disposition of a decedent's body.

### **A Message from Legal**

The laws governing the death care industry are found in Texas Occupations Code (Tex. Occ. Code) Chapter 651, Texas Health and Safety Code Chapter 716, and Texas Administrative Code (TAC) Title 22, Part 10. All the laws and rules can be found on the TFSC website by following the "TFSC Governing Laws" link.

### **Criminal Convictions**

TAC §203.33(j) requires a current licensee to disclose in writing any conviction at the time of renewal or no later than 30 days after judgment in the trial court, whichever date is earlier. It also requires an applicant to disclose in writing any conviction against him/her at the time of application. Licensees and applicants with a criminal conviction must fill out a questionnaire which can be found on the TFSC website.

The Commission may suspend or revoke a license or refuse to issue a license on the grounds that the licensee or applicant has been convicted of a felony or misdemeanor that directly relates to the duties and responsibilities of the occupation of funeral director or embalmer.

### **Public Information**

The Public Information Act gives a person the right to access government records without disclosing why the records are being requested. While all government information is presumed to be available to the public, certain exceptions may apply to the disclosure of the information. In the case of the TFSC, information concerning open complaints and investigations is exempt from disclosure.

### **For Your Information**

#### **Military Funeral Honors**

Anyone providing Military Funeral Honors for an eligible veteran should visit the Department of Defense Military Funeral Honors website at [www.dmdc.osd.mil/mfh](http://www.dmdc.osd.mil/mfh) for information. The website serves as a resource tool for funeral directors as they assist veterans' families by arranging Military Funeral Honors. The core elements of the Funeral Honors ceremony, which will be conducted on request, include: Flag Folding, Flag Presentation and the Playing of Taps.

If the family of an eligible veteran requests Funeral Honors through their funeral director, the funeral director should contact the appropriate Military Service to arrange for the Funeral Honors detail. The Department of Defense has established a toll free line (1-877-MIL-HONR) for use only by Funeral Directors to request honors. The Services request at least 48-hours in order to organize the Funeral Honors detail.

### **Texas State Veterans Cemetery**

Veterans are eligible to be buried in a Texas State Veterans Cemetery. Funeral homes should work with the families who choose to have their loved ones buried in a Texas State Veterans Cemetery to determine the type of interment the family wishes. Options to be considered are a full-casketed burial, in-ground burial of cremated remains, a columbarium niche for cremated remains, or the scattering of ashes in the memorial garden.

The funeral home should ask the family to provide a copy of the military discharge form (DD Form 214) or other military service documents to ensure eligibility. If the funeral is for the spouse of a veteran, the funeral home should request a copy of the marriage certificate. The funeral home should contact the family's Veterans cemetery of choice and make all of the arrangements for the burial service.

Although viewing facilities are not available at the cemetery, and funeral services cannot be held at Texas State Veterans Cemeteries, a family may request that a final committal service be performed. Military Honors are performed during these committal services. Committal services are held in committal shelters, followed by burial at the grave site. Floral arrangements will accompany the casket or urn from the committal shelter to the grave site.

Some families may have retained cremated remains and wish to place them at a Texas State Veterans cemetery. If this is the case, the family may contact the cemetery directly, without going through a funeral home.

Contact the Veterans Land Board toll free at 1-800-252-VETS (8387) for questions.

### **Cemetery Ingress/Egress**

Health & Safety Code §711.041 provides that any person who wishes to visit a cemetery or private burial grounds for which there is no public access shall have the right to reasonable ingress and egress for the purpose of visiting the cemetery or private burial grounds. The owner of the property may determine reasonable hours of visitation and routes needed to access the cemetery.

### **Preneed Funeral Contracts**

The Texas Department of Banking (DOB) regulates prepaid funeral merchandise or services. Prepaid funeral merchandise and services are defined as goods and services sold on a prepaid basis directly to the public for use in connection with future funeral services. Along with the normal funeral service items, prepaid funeral merchandise and services also include opening and closing of the grave and outer-burial containers. The term does not include a grave, marker, monument, tombstone, crypt, niche, plot, or lawn crypt unless it is sold in contemplation of trade for a funeral service or funeral merchandise.

Any funeral home or cemetery that sells prepaid funeral merchandise or services in Texas must have: (1) a trust-funded permit issued by the DOB or (2) sell through an insurance-funded permit holder.

Further information can be accessed at the DOB's website at [www.dob.texas.gov](http://www.dob.texas.gov).

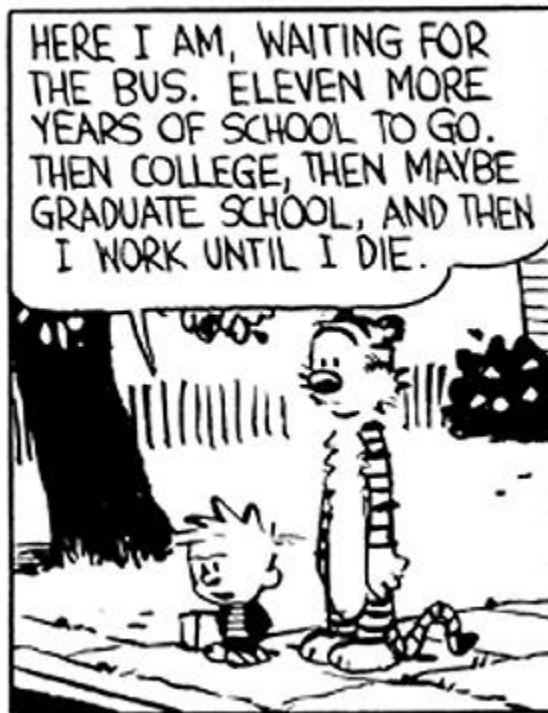
### **Perpetual Care Cemetery**

A cemetery operated as a perpetual care cemetery means that a perpetual care fund for its maintenance has been established in conformity with state law. Perpetual care means the maintenance, repair and care of the cemetery. The Texas Department of Banking (DOB), not the Commission, licenses perpetual care cemeteries.

Cemetery brokers must register with the DOB. A cemetery broker is defined as a person who sells the exclusive burial right in a cemetery for another person, essentially an unaffiliated third party. The law clarifies the procedures a cemetery broker must take in documenting the sale of a plot with a cemetery organization.

### **Just for Fun**

I think this is how my kids feel:





## **Agency Contact Information**

### **Mailing Address**

Texas Funeral Service Commission  
PO Box 12217, Capitol Station  
Austin, TX 78711

### **Physical Address**

Texas Funeral Service Commission  
333 Guadalupe Street, Ste. 2-110  
Austin, TX 78701

### **Web Address**

[www.tfsc.texas.gov](http://www.tfsc.texas.gov)

### **Agency Directory**

Executive Director	Janice McCoy	(512) 936-2474
Staff Attorney	Kyle Smith	(512) 936-2480
Legal Assistant/PIO	Kathy Sparks	(512) 936-2469
Administrator of Compliance	Rodney van Oudekerke	(512) 936-2470
Executive Assistant/Office Manager/ Administrator of Licensing	Martha Gussoni	(512) 936-2468
Chief Financial Officer	Jennifer Noack	(512) 936-2474
Establishment & Crematory Licensing Specialist	Nikki Smith	(512) 936-2479
Provisional Licensing Specialist	Sarah Reyes	(512) 936-6552
Reciprocal & Reinstatement Licensing Specialist / Brochures	Maria Haynes	(512) 936-2421
Investigator	Jeff Morales	(512) 936-2466
Inspector - Compliance	Bill Vanneste	(512) 936-2490
Inspector - Compliance	Kyle Bass	(512) 936-2488
Main Number		(512) 936-2474
Toll Free Number		(888) 667-4881
Fax Number		(512) 479-5064
Email		<a href="mailto:info@tfsc.texas.gov">info@tfsc.texas.gov</a>